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TRANSBAY CONTAINER TERMINAL, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

DAVE WILLIAMS,

Plaintiff,

vs.

INTERNATIONAL TRANSPORTATION
SERVICES, INC., and/or TRANSBAY
CONTAINER TERMINAL, INC.,

Defendants.

Case No.: CV 11-6596 SI

**STIPULATION AND ~~[PROPOSED]~~
ORDER TO CHANGE FURTHER
CASE MANAGEMENT CONFERENCE
DATE**

Complaint Filed: December 21, 2011

CURRENT CMC DATE: Nov. 2, 2012
PROPOSED CMC DATE: Dec. 21, 2012

Pursuant to this Court's Pretrial Preparation Order entered on July 23, 2012, a Further Case Management Conference was scheduled for November 2, 2012 at 3:00 p.m. Plaintiff Dave Williams and Defendant TransBay Container Terminal, Inc., through their respective counsel, hereby stipulate that, subject to approval by the Court, and for the reasons set forth below, the Further Case Management Conference be changed to December 21, 2012.

GOOD CAUSE offered: During the Initial Case Management Conference held on July 20, 2012 the parties and the Court discussed the possibility that the parties' belief that they would be able to complete the discovery necessary for a productive mediation by the stipulated deadline of October 19, 2012 might be optimistic. The parties have worked diligently and completed most of the discovery they felt necessary for a productive mediation and have begun settlement discussions. The parties have cooperated in exchanging information and documents that are accessible and are working diligently to obtain records regarding forklift maintenance and repair records and regarding Plaintiff's prior back injury claims that are not in the parties' possession. Plaintiff's deposition is largely completed, a defense medical examination has been completed, and the forklift has been examined by both parties' experts. One of the former TBCT foremen has been deposed, and two former mechanics have been located and are being subpoenaed for deposition. It is anticipated that these remaining discovery items will be useful for a productive mediation and will take another 25 to 40 days to complete.

The parties agree that, in view of the sizeable workers' compensation lien (approximately \$250,000) claimed by Ports America, in order for the mediation to be productive, an authorized representative of Ports America will need to participate in the mediation. Ports America has now agreed to provide documentation to support its lien and has agreed to participate in the mediation. The earliest date that all parties, Ports America and their respective counsel and the mediator are available is Thursday, December 13, 2012. The parties do not believe that a change in the date for the Further Status Conference will effect any of the other dates in the Court's Pretrial Order dated July 23, 2012.

In the parties' joint STIPULATION AND [PROPOSED] ORDER TO CHANGE DEADLINE TO HOLD ADR SESSION filed on October 11, 2012 (approval of which is

currently pending before this Court), the parties requested a change in the deadline to hold the ADR session (private mediation before Hon. Alfred Chiantelli (Ret.)) from October 19, 2012 to December 13, 2012. If that mediation is successful in resolving the entire case, no further status conference will be necessary. If it is not, a further status conference following that mediation may be a better use of the Court's time in determining what other steps might improve the potential for a successful mediation or possibly narrowing the issues for trial.

Accordingly, the parties respectfully request that the Further Case Management Conference currently set for November 2, 2012 at 3:00 p.m. be rescheduled for December 21, 2012, at the same time and courtroom, or to such other time and date following the mediation as dictated by the Court's calendar.

SO STIPULATED.

DATED: October 19, 2012

BIRNBERG & ASSOCIATES

By /s/ Cory A. Birnberg
Cory A. Birnberg
Attorney for Plaintiff Dave Williams

DATED: October 19, 2012

EMARD DANOFF PORT TAMULSKI & PAETZOLD LLP

By: /s/ Raymond M. Paetzold
Raymond M. Paetzold
Attorneys for Defendant
TransBay Container Terminal, Inc.

Certification of Signatures


I attest that the content of this document is acceptable to all persons above, who were required to sign it.

/s/ Raymond M. Paetzold
Raymond M. Paetzold

1 IT IS SO ORDERED.

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3 The Further Case Management Conference is hereby set for December ²⁰~~21~~, 2012 at 3:00
4 p.m. in Courtroom 10, 19th Floor, San Francisco.

5 Dated: 10/22/12

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7 SUSAN ILLSTON
8 United States District Judge
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